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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,109	05/05/2004	Martin Weel	1116-063	9461

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EXAMINER	
LUU, LE HIEN	

ART UNIT	PAPER NUMBER
2441	

MAIL DATE	DELIVERY MODE
03/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/840,109	WEEL, MARTIN	
	Examiner	Art Unit	
	Le Luu	2441	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 February 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *35,37-39,41,43-53 and 59-61* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *35,37-39,41,43-53 and 59-61* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *02/20/09*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. Claims 35, 37-39, 41, and 43-61 are presented for examination.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 35, 37-39, 41, and 43-61 rejected under 35 U.S.C. § 103 (a) as being unpatentable Szeto et al. (Szeto) Pub. No. 2005/0262204, in view of Lee et al. (Lee), Pub. No. 2003/0225834.

4. As to claim 35, Szeto teaches the invention as claimed, including a method for playing media the method comprising:

displaying on a first device a plurality of playlist names (Fig 3; pages 3-4, paragraphs[0024 - 0029]);

selecting one of the plurality of playlist names (Fig 3; pages 3-4, paragraphs[0024 - 0029]);

sending at least one attribute of a playlist corresponding to the selected playlist name to a playlist server Fig 3; pages 3-4, paragraphs[0024 – 0029]);

receiving on the first device a playlist from the playlist server, the received playlist corresponding to the at least one attribute and comprising a plurality of media item identifiers (Fig 3; pages 3-4, paragraphs[0024 - 0029]);

selecting at least one media item identifier from the received playlist (Fig 3; pages 3-4, paragraphs[0024 - 0029]); and

directing a second device to receive a media item identified by the at least one media item identifier from a content server (Fig. 4; pages 4-5 , paragraph [0034]).

However, Szeto does not explicitly teach the directing step is directed by the first user.

Lee teaches an inviter computer communicates to an invitee computer information relating to shared dynamic content experience at the inviter computer and directs the invitee computer to stream a track directly from content server (pages 4-5, paragraphs [0039 – 0040, 0050 - 0052]; pages 7-8, paragraphs [0071 – 0076], page 10, paragraph [0101]).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Szeto and Lee to have the first device directs the second device to receive a media item because it would allow online co-users to listen to the same song automatically at the same time.

5. As to claims 37-39, 41, 43-47, and 55, Szeto and Lee teach a first device comprises one of a handheld portable device, a palmtop, an MP3 player, a mobile phone, a remote control to control the second device; the attribute selected from a

group consisting of a type of music, a playlist name, an artist, etc; playing a plurality of at least one media item in different order; providing a recommendation of a playlist name based upon listening habits of a listener (Szeto, Fig 3; pages 1-4, paragraphs[0015, 0023 – 0029]; Lee, page 2, paragraph [0025]; pages 4-5, paragraphs [0039 – 0040, 0050 - 0052]; pages 7-8, paragraphs [0071 – 0076], page 10, paragraph [0101]).

6. Claims 48-54 and 56-61 have similar limitations as claims 35-47; therefore, they are rejected under the same rationale.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le Luu whose telephone number is 571-272-3884. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

/Le Luu/

Primary Examiner, Art Unit 2441